


BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2003-20-C - ORDER NO. 2003-478

AUGUST 11, 2003

IN RE: Application of Dialaround Enterprises, Inc.)	ORDER 
for a Certificate of Public Convenience and)	APPROVING
Necessity to Provide Resold Intrastate)	APPLICATION
Interexchange Telecommunications Services)	
and Modified Alternative Regulation.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Dialaround Enterprises, Inc. ("Dialaround" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2002) and the general regulatory authority of the Commission. By its Application, Dialaround also requested alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and requested waiver of certain Commission regulations.

The Commission's Executive Director instructed Dialaround to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Dialaround and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Dialaround complied with this instruction

and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was convened on July 10, 2003, at 10:30 a.m. in the Commission's Hearing Room, Columbia, South Carolina. The Honorable Mignon Clyburn, Chairman, presided. Dialaround was represented by Frank Ellerbe, Esquire. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff.

Douglas Barley, Assistant Secretary of the Company, appeared and testified in support of the Application. As Assistant Secretary of Dialaround, Mr. Barley is responsible for the financial and regulatory functions of the Company. Mr. Barley was Chief Financial Officer of PT-1 Communications from 1996 until 1999. He was licensed by the State of New York as a Certified Public Accountant in 1986, and has been a member of the New York Society of CPAs, the American Institute of CPAs, and standing committees that represent those organizations. Further, Mr. Barley was in public accounting for more than ten years. While employed by the top national and regional accounting and consulting firms, Mr. Barley served as engagement executive for a diverse base of large and middle market clientele providing audit services as well as consulting on operational and financial control issues. According to the record, Mr. Barley has had extensive involvement with the development stage and start-up enterprises and has more than fifteen years experience with SEC registrations, Initial Public Offerings, and statutory reporting compliance.

Sam Tawfik is the Chairman and Chief Executive Officer of Dialaround. Mr. Tawfik was a founder of PT-1 Communications, Inc. in 1995. Further, Mr. Tawfik has

over fifteen years of experience in sales, marketing, and distribution with the last five years in the field of telecommunications. Prior to joining PT-1 Communications, Inc., Mr. Barley founded a debit card company.

The Company was incorporated in the State of Delaware on February 26, 2001. Dialaround is planning a nationwide marketing program and is seeking certification in all states where it is required. The Company's primary product is non-primary service where the customer dials the Company's access code, 1016400, and then the called number. This service is promoted through print and TV advertising. Mr. Barley does not intend to use telemarketing in South Carolina.

According to the record, Dialaround will utilize the facilities of Sprint Telecom as its underlying carrier. Sprint will provide outbound switched, inbound switched, calling card services, and directory assistance. Mr. Barley testified that Dialaround is able to offer services to its customers at a rate that is lower than what the customer is presently paying. The testimony reveals further that by pooling the traffic of its customers, Dialaround is able to achieve the volumes necessary to obtain substantial discounts available from the carrier. Mr. Barley testified that Dialaround's customers pay rates that are in between what the very large users pay and a rate a customer could obtain by subscribing to the carrier directly.

Regarding the billing services of Dialaround, Mr. Barley testified that the underlying carrier provides billing tapes of all call detail. The intrastate call detail records are then sorted by Dialaround customer and are rated at the rates included in Dialaround's intrastate tariff. Further, a bill is generated monthly for the customer.

Regarding the Company's financial resources, Dialaround, as of November 30, 2002, had current assets totaling \$3,251,759 and its current liabilities totaled \$396,195. Dialaround's revenue as of November 30, 2002, totaled \$1,132,367.

Dialaround requests that the Commission regulate its long distance business services, consumer card, and operator service offerings in accordance with the principles and procedures established for alternative regulation in Orders Nos. 1995-1734 and 1996-55, as modified by Order No. 2001-997-C which was approved for AT&T and other similarly situated companies. Mr. Barley testified that Dialaround understands that the alternative regulation orders were modified by Order No. 2001-997 so that rate caps for operator-assisted calls where a consumer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as their toll provider. The testimony reveals that Dialaround also knows that the Commission's most recent Order imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per minute rate associated with these calls.

Dialaround seeks an exemption from any regulations or policies that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). As a competitive carrier, the Company maintains its books in accordance with the Generally Accepted Accounting Principles (GAAP); and therefore, does not possess the detailed cost data required by the USOA.

The Company also requests a waiver of the requirements of 26 S.C. Regs. 103-610 which requires a carrier to keep all records required by the Commission's Rules and

Regulations within the State of South Carolina. The Company's offices are in New York; therefore, Mr. Barley testified that maintaining the Company's books and records in South Carolina would be unduly burdensome. Mr. Barley testified that Dialaround will have a registered agent in South Carolina and the Company will bear any costs associated with the Commission's inspection of its books and records.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Dialaround is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Dialaround operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.
3. Dialaround has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Dialaround to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area

Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Dialaround for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Dialaround shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. Dialaround shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2002).

4. With respect to Dialaround's business services, consumer card, and operator service offerings, the Commission adopts a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Dialaround also. These alternative regulation orders were modified by Order No. 2001-997 in Docket No. 2000-407-C which imposed a cap on operator-assisted calls where a consumer uses a local exchange carrier's calling card to complete calls from locations which have not selected the local exchange carrier as their toll provider. The provisions of this Order and this modification also apply to Dialaround.

5. If it has not already done so by the date of issuance of this Order, Dialaround shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. Dialaround is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Dialaround shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Dialaround changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, Dialaround shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Dialaround shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

10. Dialaround shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Dialaround shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South

Carolina Operations for Interexchange Companies and AOS.” This form shall be utilized by the Company to file annual financial information with the Commission. Commission gross receipts forms are due to be filed with the Commission no later than October first of each year.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Dialaround shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

13. At the hearing, Dialaround requested a waiver of Reg. 103-610, which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that Dialaround’s principal headquarters will be located in New York and Dialaround requests permission to maintain its books and

records at its headquarters in that state. The Commission finds Dialaround's requested waiver reasonable and understands the difficulty presented to Dialaround should the waiver not be granted. The Commission therefore grants the requested waiver that Dialaround be allowed to maintain its books and records at its principal headquarters. However, Dialaround shall make available its books and records at all reasonable times upon request by the Commission or the Commission Staff, and Dialaround shall promptly notify the Commission if the location of its books and records changes.

14. Dialaround also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Dialaround maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers. Moreover, Dialaround asserts that because it utilizes GAAP, the Commission will have a reliable means by which to evaluate Dialaround's operations and assess its financial fitness. Accordingly, Dialaround hereby requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above.

15. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides the Commission Staff information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15th.

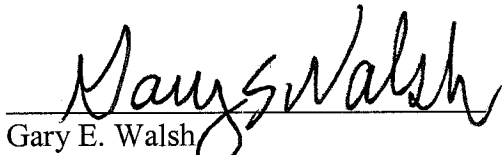
16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn
Chairman

ATTEST:



Gary E. Walsh
Executive Director

(SEAL)